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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/618,154	07/11/2003	M. Scott Reichardt	UV-174 Con. 2	4144
75563	7590	10/21/2008	EXAMINER	
ROPS & GRAY LLP			NGUYEN BA, HOANG VU A	
PATENT DOCKETING 39/361			ART UNIT	PAPER NUMBER
1211 AVENUE OF THE AMERICAS			2421	
NEW YORK, NY 10036-8704				

  

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10/21/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/618,154	REICHARDT ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Hoang-Vu A. Nguyen-Ba	2421	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 18 June 2008.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 85-136 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 85-136 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 18 June 2008 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1/17/08, 4/16/04, 9/7/07, 6/18/08</u> .                       | 6) <input type="checkbox"/> Other: _____ .                        |



**DETAILED ACTION**

1. This action is responsive to amendment filed on June 18, 2008.
2. Claims 85-136 remain pending. Claims 85, 98, 111 and 124 are independent claims.

***Information Disclosure Statement***

3. The Office acknowledges receipt of the Information Disclosure Statements filed on April 16, 2004, January 17, 2007 and September 7, 2007 and June 18, 2008. They have been placed in the application file and the information referred to therein has been considered.

***Response to Amendments***

4. The objection to the drawings is withdrawn in view of the amendment to FIG. 13 to correct a typographical error.
5. The objection to the specification is withdrawn in view of Applicant's amendments to the specification to provide proper registration marks to the identified trade names.

***Response to Arguments***

6. The objection to the specification because the title of the invention is not descriptive is withdrawn in view of Applicant's persuasive arguments.
7. Applicant's arguments in the Remarks section are fully considered but are moot in view of the new grounds of rejection.

***Claim Rejections – 35 USC § 103***

8. The following is a quotation of the 35 U.S.C. § 103(a) which form the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 85-94, 98-107, 111-120 and 124-133 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,177,931 to Alexander et al. (“Alexander”) in view of U.S. Patent No. 5,233,423 to Jernigan et al. (“Jernigan”).

### **Claim 85**

Alexander discloses at least *a method for presenting a user with a graphic advertisement in an interactive television program guide implemented on user television equipment, wherein television commercials and other television programming are transmitted to the user television equipment over a communications path from a distribution facility and are displayed for the user on the user television equipment, comprising:*

*providing the user with an opportunity to access interactive television program guide information provided by the interactive television program guide (see at least FIG. 1, windows 14, 16; 10A-B; in FIGs. 10A and 10B, highlighted window; and 4:34-43; 26:14-29; 27:49-51) by overlaying an icon on the full-screen television commercial, wherein the icon indicates the availability of the interactive television program guide information (see at least FIG. 1, 10A-B; and 4:34-43; 26:14-29; e.g., if the “i” icon can be displayed/overlaid as shown in these figures, it can also be displayed/overlaid on a full screen because the method of displaying/overlaying would be the same); and*

*displaying the interactive television program guide including the interactive television program guide information and a graphic advertisement associated with the given advertiser when the user accesses the interactive television program guide information in response to the icon (see at least FIG. 1, windows 14, 16; 10A-B; in FIGs. 10A and 10B, highlighted window; and 4:34-43; e.g., the given advertiser is abc® or CBS® logo next to “Season Premier! in FIG. 10B).*

Alexander does not specifically disclose:

*displaying, without entering the interactive television program guide, a full-screen television commercial associated with a given advertiser.*

However, in an analogous art, Jernigan teaches a television receiver that is capable of displaying an advertisement full screen upon power-on, among other things (see at least FIG. 2A; 3:60-4:11).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to use the features taught by Jernigan in Alexander because the feature of displaying an ad full screen would better capture the attention and interest of a viewer regarding an advertised product.

### **Claim 98**

Claim 98 is an independent claim that recites a system (e.g., the television systems mentioned in 1:36-40) comprising means for performing the steps of the method claim 1. Thus, the rationale for the rejection of Claim 1 also applies to Claim 98.

### **Claim 111**

Alexander discloses at least *a system for presenting a user with a graphic advertisement in an interactive television program guide* (e.g., the television systems mentioned in 1:36-40) comprising:

*a display device* (see at least 1:36-40);  
*an input device* (see at least FIG. 2); and

*control circuitry* (the control circuitry is deemed inherent to the television systems mentioned in 1:36-40; without this circuitry the television systems that are interpreted to include set-top box, remote controller, etc., the display of the EPG and EPG and advertisement information would not be possible as shown in FIGs. 1-10B) *configured to* perform the steps of the method claim 1. Thus, the rationale for the rejection of the claim discussed in claim 1 is deemed applicable to claim 111 regarding the above features.

Alexander does not specifically disclose that the control circuitry configured to:

*direct the display device to display, without entering the interactive television program guide, a full-screen television commercial associated with a given advertiser.*

However, in an analogous art, Jernigan teaches a television receiver that is capable of displaying an advertisement full screen upon power-on, among other things (see at least FIG. 2A; 3:60-4:11).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to use the features taught by Jernigan in Alexander because the feature of displaying an ad full screen would better capture the attention and interest of a viewer regarding an advertised product.

#### **Claim 124**

Claim 124 is an independent that recites *a computer readable medium encoded with machine-readable instructions* (e.g., the hardware components of the television systems mentioned in 1:26-40) *for use in* performing the same steps of the method claim 1. Thus, the rejection of Claim 1 also applies to Claim 124.

#### **Claims 86, 99, 112 and 125**

The rejection of respective base claim is incorporated. The combination Alexander-Jernigan further discloses *wherein the television commercial and the graphic advertisement are both branded with the same brand, the method further comprising displaying the graphic advertisement branded with that brand on the user television equipment* (Alexander; see at least FIGs. 10A-B; display of additional information concerning subject matter of a highlighted panel Ad window with brand or logo such as abc® and CBS®’s logo).

#### **Claims 87, 100, 113 and 126**

The rejection of respective base claim is incorporated. The combination Alexander-Jernigan further discloses *retrieving the graphic advertisement from local memory* (Alexander; see at least 4:34-43; 33:45-46; 34:10-16).

#### **Claims 88, 101, 117 and 127**

The rejection of respective base claim is incorporated. The combination Alexander-Jernigan further discloses *retrieving the graphic advertisement from a remote server* (Alexander; see at least 8:27-43; 33:45-47; 34:10-16).

### **Claims 89, 102, 114 and 128**

The rejection of respective base claim is incorporated. The combination Alexander-Jernigan further discloses *retrieving the graphic advertisement from local memory according to a schedule* (Alexander; see at least 25:50 – 26:60).

### **Claims 90, 103, 118 and 129**

The rejection of respective base claim is incorporated. The combination Alexander-Jernigan further discloses *retrieving the graphic advertisement from a remote server according to a schedule* (Alexander; see at least 8:18-64; 25:50 – 26:60; 33:21-24).

### **Claims 91, 104, 115 and 130**

The rejection of respective base claim is incorporated. The combination Alexander-Jernigan further discloses *retrieving the graphic advertisement from local memory in response to a real-time flag in the commercial* (Alexander; see at least 8:18-64; 14:47 – 15:31; 33:21-24; 33:21-24).

### **Claims 92, 105, 119 and 131**

The rejection of base claim is incorporated. The combination Alexander-Jernigan further discloses *retrieving the graphic advertisement from a remote server in response to a real-time flag in the commercial* (Alexander; see at least 8:18-64 and 14:47 – 15:31; 33:21-24; 33:43-47).

### **Claims 93, 106, 116 and 132**

The rejection of base claim is incorporated. The combination Alexander-Jernigan further discloses *retrieving the graphic advertisement from local memory in response to a real-time vertical-blanking-interval flag in the commercial* (Alexander; see at least 8:18-64; 33:21-24; 33:21-24).

### **Claims 94, 107, 120 and 133**

The rejection of base claim is incorporated. The combination Alexander-Jernigan further discloses *retrieving the graphic advertisement from a remote server in response to a real-time vertical-blanking-interval flag in the commercial* (Alexander; see at least 8:18-64; 14:47 – 15:31; 33:21-24; 33:43-47).

10. Claims 95-97, 108-110, 121-123 and 134-136 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,177,931 to Alexander et al. (“Alexander”) in view of U.S. Patent No. 5,233,423 to Jernigan et al. (“Jernigan”), as applied the respective base claim, and further in view of U.S. Patent No. 5,589,892 to Knee et al. (“Knee”).

### **Claims 95, 108, 121 and 134**

The combination Alexander-Jernigan does not specifically disclose the feature of Claims 95, 108, 121 and 134.

However, in an analogous art, Knee discloses *enabling the user to purchase a product or service using the interactive television program guide* (see at least FIGs. 43B-E and 44).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to use the feature Knee in the combination Alexander-Jernigan because this would provide means for a user to conveniently purchase products or services advertised in windows 14 and 16 of FIG. 1 and in highlighted windows of FIGs. 10A-B of Alexander, thereby providing users with more incentives to purchase products or services while watching television and thus increasing e-commerce.

### **Claims 96, 109, 122 and 135**

The combination Alexander-Jernigan does not specifically disclose the feature of Claims 96, 109, 122 and 135.

However, in an analogous art, Knee discloses *enabling the user to purchase a product or service using the interactive television program guide by displaying a point-of-sale window*

*having information on the product or service in response to a user input when the icon is displayed* (see at least FIGs. 43B-E and 44).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to use the feature Knee in the combination Alexander-Jernigan because this would provide means for a user to conveniently purchase products or services advertised in windows 14 and 16 of FIG. 1 and in highlighted windows of FIGs. 10A-B of Alexander, thereby providing users with more incentives to purchase products or services while watching television and thus increasing e-commerce.

### **Claims 97, 110, 123 and 136**

The combination Alexander-Jernigan does not specifically disclose the feature of Claims 97, 110, 123 and 136.

However, in an analogous art, Knee discloses *enabling the user to purchase a product or service using the interactive television program guide by displaying a point-of-sale window having information on the product or service in response to a user input when the icon is displayed, wherein the point-of-sale window also provides access to other products or services* (see at least FIGs. 43B-E and 44).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to use the feature Knee in the combination Alexander-Jernigan because this would provide means for a user to conveniently purchase products or services advertised in windows 14 and 16 of FIG. 1 and in highlighted windows of FIGs. 10A-B of Alexander, thereby providing users with more incentives to purchase products or services while watching television and thus increasing e-commerce.

### ***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hoang-Vu "Antony" Nguyen-Ba whose telephone number is (571) 272-3701. The examiner can normally be reached on Monday-Friday from 9:00 am to 5:30 pm.

If attempts to reach the examiner are unsuccessful, the examiner's supervisor, John Miller can be reached at (571) 272-7353.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application should be directed to the TC 2400 Group receptionist (571) 272-2400.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).

/Hoang-Vu Antony Nguyen-Ba/

Primary Examiner, Art Unit 2421

October 17, 2008